

Appendix F

CONFIDENTIAL RELEASE AND SETTLEMENT AGREEMENT

THIS RELEASE AND SETTLEMENT AGREEMENT ("Agreement") is made effective this ____ day of February, 2004, by and between Microsoft Corporation ("Microsoft"), and Merchant Commerce, LLC ("Merchant Commerce") and Boris Mizhen ("Mizhen").

RECITALS

A. Microsoft has initiated suit against Merchant Commerce and Mizhen (collectively referred to herein as "Defendants") in King County Superior Court, Cause No. 03-2-15706-6SEA (the "Lawsuit") where it is presently pending. Microsoft has made claims for breach of contract, trespass to chattels, conversion and for violations of the Washington Commercial Electronic Mail Act (RCW Ch. 19.190), the Washington Consumer Protection Act, the federal Computer Fraud and Abuse Act (18 U.S.C. §1030(a)), and California Bus. & Prof. Code §§17538.45.

B. The parties have entered into this Agreement to avoid the expense, inconvenience, and uncertainty of litigation. The purpose of this Agreement is to achieve a full and complete settlement and compromise of all claims asserted in the Lawsuit.

TERMS

1.

[REDACTED] That sum shall be paid by CASHIER'S CHECK payable to "Microsoft Corporation" and shall be delivered to Microsoft's counsel, David A. Bateman of Preston Gates & Ellis LLP, 925 Fourth Avenue, Suite 2900, Seattle, Washington 98104.

2. The parties shall, concurrently with the execution of this Agreement, execute a Stipulated Judgment in the form attached hereto as Exhibit A, by which judgment in the amount of Two Million Dollars (\$2,000,000) will be entered against Merchant Commerce.

3. The parties shall, concurrently with the execution of this Agreement, execute a Stipulated Permanent Injunction ("Permanent Injunction") in the form attached hereto as Exhibit B.

4. Following payment of the sum identified in paragraph 1, the parties will promptly seek the entry of the Stipulated Judgment and Permanent Injunction by the Court. The parties will take other steps, as reasonably necessary, to finalize entry of the Stipulated Judgment and Permanent Injunction, and to bring the Lawsuit to an end. Except as otherwise provided herein, each party to the Lawsuit shall bear its own costs, and the Court will retain jurisdiction to enforce the Permanent Injunction.

5. The Parties further acknowledge that this Agreement does not affect any Party's right to seek any other relief to which the party may be entitled as a result of any act(s) giving rise to a claim not specifically released by this Agreement. In addition to the foregoing, in the event of any breach or violation of this Agreement and/or the Permanent Injunction, or for other unlawful activity, occurring after the date of execution of this Agreement, Microsoft shall be entitled to enforce all of its legal remedies for the breach or wrongful activity including, but not limited to, seeking actual damages, the maximum amount of statutory damages under applicable statutes and Acts, profits, treble damages, and attorneys' fees and costs. These remedies and damages are in addition to the monetary payments described above and/or any amounts otherwise due under this Agreement.

6. The Parties further agree that an impending or existing violation of any provision of this Agreement and/or the Permanent Injunction would cause Microsoft irreparable injury for which it would have no adequate remedy at law, and agrees that Microsoft shall be entitled to obtain immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it.

7. (a) Defendants agree that he and they shall not disclose or characterize the existence, terms or conditions of this Agreement, including the amount of the settlement, to any third party except as required by court order or other legal or governmental process, including, if necessary, disclosure to the Internal Revenue Service to establish the nature of the settlement, or to his tax accountants, tax advisors or tax counsel. Defendants shall inform their tax accountants, tax advisors and tax counsel of the confidentiality provisions of this Agreement and obtain their written agreement to be bound thereby. Defendants agree to notify Microsoft of any legal or governmental process sufficiently in advance of responding to such process so that Microsoft may, if it deems necessary, take steps to oppose such disclosure.

(b) In the event that there is a breach of the terms of paragraph 7(a), Defendants shall be jointly and severally liable to Microsoft for the sum of \$30,000 as liquidated damages. The parties acknowledge that it would be difficult, if not impossible, to determine the actual damages to Microsoft, that such damages are uncertain and impractical of determination, and agree that the liquidated damages set out in this subparagraph represent the damages fairly estimated by the parties and not a penalty.

8. The Parties further acknowledge and agree that Microsoft shall be entitled to recover actual expenses associated with the enforcement of this Agreement and/or the Permanent Injunction. Microsoft's actual expenses include, but are not limited to, reasonable attorneys' fees and recoverable costs incurred in connection with such enforcement.

9. The Parties agree that this Agreement and its terms and conditions shall be subject to and construed in accordance with the laws of the State of Washington. The Parties consent to exclusive jurisdiction and venue for any claim for enforcement of this

Agreement and for any actions involving any violation of the Permanent Injunction in the courts of King County, Washington.

10. This Agreement, and any companion documents referenced or provided for herein, constitutes the entire agreement between the Parties pertaining to the settlement of disputes and obligations between them with respect to the subject matter of this Agreement.

11. The Parties each acknowledge and agree that they have reviewed this Agreement in its entirety, and every part thereof, and that they understand same, that they have had the opportunity to review this Agreement and to consult with their independent counsel as to the Agreement to the extent they desire, and that the terms and conditions hereof adequately and correctly reflect their respective understandings of the subject matter hereof.

12. This Agreement has been generated pursuant to the equal negotiations and advice of the Parties and their counsel. Accordingly, this Agreement should not be construed more favorably or unfavorably as to any party hereto.

13. The undersigned each covenant and warrant that they have the right and authority to enter into this Agreement and carry out its terms.

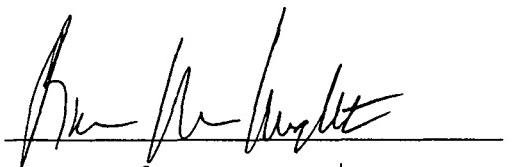
14. The undersigned each covenant and warrant that anyone signing on behalf of any corporation herein is and has been specifically authorized pursuant to appropriate action of the shareholders and/or directors thereof, as applicable, to execute this Agreement as the act and deed of such corporation.

15. This Agreement may be executed in counterparts, and by facsimile, all of which taken together shall constitute one agreement.

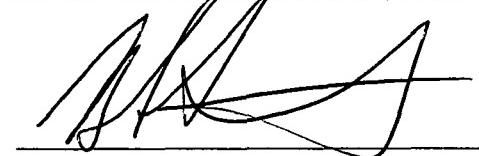
16. If any provision, or portion thereof, of this Agreement is held by a court of competent jurisdiction to be invalid under any applicable statute or rule of law, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement and further agree to substitute for the invalid provision a valid provision which most closely approximates the intent and economic effect of the invalid provisions.

WHEREFORE, the Parties hereby acknowledge their agreement and consent to the terms and conditions set forth above through their respective signatures as contained below.

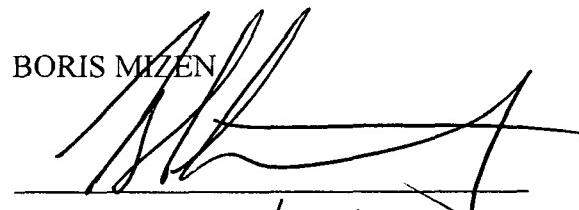
MICROSOFT CORPORATION


Title: Senior attorney
Dated: 3/9/04

MERCHANT COMMERCE, LLC


Title: CEO
Dated: 2/23/04

BORIS MIZEN


Dated: 2/23/04

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